

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
SOUTHWESTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

FAG BEARINGS, LLC,

Defendant.

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) Civil Action No.
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COMPLAINT FOR NATURAL RESOURCE DAMAGES

The United States of America, by the authority of the Attorney General of the United States, acting at the request of the Department of the Interior ("DOI"), through the undersigned attorneys, file this complaint and allege as follows:

NATURE OF ACTION

1. This civil action seeks recovery of damages for injury to, loss of, or destruction of natural resources, under Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. § 9607. The United States seek damages in order to compensate for and restore natural resources injured by the release or threatened release of hazardous substances into the environment at the Newton County Wells Superfund Site ("Site") in Newton and Jasper Counties in Southwestern Missouri. The United States also seeks to recover un-reimbursed costs of assessing such damages.

JURISDICTION AND VENUE

2. This Court has jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331 (Federal question), 1345 (United States as plaintiff), and Section 113(b) of CERCLA, 42 U.S.C. § 9613(b) (Jurisdiction; venue).

3. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) (Venue generally), and Section 113(b) of CERCLA, 42 U.S.C. § 9613(b) (Jurisdiction; venue), because it is the judicial district in which the releases occurred.

DEFENDANT

4. FAG Bearings, LLC ("FAG Bearings" or "Defendant") is a "person" within the meaning of Section 101 of CERCLA, 42 U.S.C. § 9601(21).

FACTUAL ALLEGATIONS

5. The Newton County Wells Site is located in northern Newton and southern Jasper Counties in southwest Missouri. The Site encompasses approximately 306 acres and surrounds the FAG Bearings property at 3900 Rangeland Road in Joplin, Missouri.

6. The Site is a "facility" within the meaning of section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

7. There have been "releases" and "threatened releases" of "hazardous substances" within the meaning of Sections 101(22) and 107(a) of CERCLA, 42 U.S.C. §§ 9601(22), 9607(a), at and from the Site, including, inter alia, discharges of trichloroethylene (TCE) and chlorinated solvents in the vicinity of the FAG Bearings facility at the Site.

8. "Natural Resources" within the meaning of Section 101(16) of CERCLA, 42 U.S.C. § 9601(16), have been and/or are being injured, lost, or destroyed as a result of the

releases of hazardous substances from the Site.

9. FAG Bearings is the owner and operator of a facility that manufactures ball bearings. From 1972 until 1982, FAG Bearings used TCE as a degreaser in its manufacturing process. There have been releases of the hazardous substance TCE from the FAG Bearings facility into the environment.

10. Defendant FAG Bearings is the "owner and operator" of the FAG Bearings facility within the meaning of section 101(20) of CERCLA, 42 U.S.C. § 9601(20).

11. The United States has incurred costs in assessing damages to natural resources resulting from the releases.

CLAIM FOR RELIEF

12. Paragraphs 1 through 11 are realleged and incorporated herein by reference.

13. Defendant FAG Bearings is liable as the "owner and operator" of the FAG Bearings facility under 42 U.S.C. § 9607(a)(1) and as a "person who at the time of disposal of hazardous substances owned or operated" the FAG Bearings facility, under 42 U.S.C. § 9607(a)(2).

14. Pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), FAG Bearings is jointly and severally liable to the United States for damages for injury to, destruction of, or loss of natural resources, including the reasonable costs of assessing such injury, destruction, or loss resulting from a release of a hazardous substance from the Site.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully pray that this Court:

1. Award the United States a judgment against Defendant for all damages and

assessment costs; and

2. Grant the United States such other relief as this Court may deem appropriate.

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